



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_

BILL 39 (2010), FD1

PROPOSED

## A BILL FOR AN ORDINANCE

RELATING TO THE REGULATION OF SIDEWALKS.

BE IT ORDAINED by the People of the City and County of Honolulu:

### SECTION 1. Findings and purpose.

The council finds:

1. Under federal and state law, local governments have primary responsibility for the management of public sidewalks.
2. The proper regulation of public sidewalks must provide for multiple beneficial uses, the safety of sidewalk users, efficient movement of people and delivery of goods and services, as well as access to public spaces for full lawful use.
3. A pedestrian use zone dedicated to, and protected for, the use of pedestrians that allows other beneficial uses on a substantial portion of adjacent sidewalk or by permit or proper exception would serve compelling interests of the City in high pedestrian traffic areas.
4. It is important that the public be able to use sidewalks as places of permitted commerce and to socialize, gather and speak.
5. Commercial and other uses such as sidewalk furniture, bicycle racks, signal controller boxes, drinking fountains, fire hydrants, parking meters, transit shelters, light poles, mail boxes, telephones, retail and commercial doorways, garbage cans, newspaper boxes, benches, permitted carts and cafes, planters and public art, among other items, are all necessary and beneficial uses of sidewalks but can be in conflict with safe pedestrian use of sidewalks.
6. Public sidewalks are a public service and pedestrian facility that must be designed and operated in compliance with the accessibility standards in the *Architectural Barriers Act of 1968*, the *Rehabilitation Act of 1973 (Section 504)*, and the *Americans with Disabilities Act of 1990*. The design and management of public sidewalks must accommodate pedestrians of all abilities as required by law but is particularly important to those with disabilities such as older adults, persons with vision impairments, and children have limited travel choices and must rely on public pedestrian right-of-ways.
7. The United States Department of Transportation estimates that approximately 20 percent of Americans have a disability, and that percentage is increasing. As



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estimated by the United States Department of Transportation, by the year 2030, one in five Americans will be 65 years or older.

8. Federal design guidelines emphasize that sighted pedestrians do not feel comfortable walking directly adjacent to building walls, doors or fences and prefer to keep at least two feet away from the edge of sidewalks opposite the street (known as the "frontage line"). As a result, most pedestrians travel more than two feet away from the frontage line, and the sidewalk adjacent to the frontage line does not provide its proportionate share of sidewalk through-put capacity for sighted pedestrians. In contrast, people with vision impairments often prefer to travel close to the frontage line to use sound or physical contact for orientation or guidance, traveling one to four feet from the frontage line.
9. Federal guidelines advise: (a) the area along the frontage line should be free of fixed obstacles and protruding objects that cannot be detected by cane and that fixed, stable and predictable sidewalk topography greatly benefits people with vision impairments, (b) people using a guide dog, crutches or a walker require four feet of width as they travel along a sidewalk, (c) wheelchair users require five feet to turn around and six feet to pass other wheelchairs, (d) sidewalk capacity is greatly reduced if pedestrians cannot pass each other, both oncoming and overtaking, and greatly enhanced if two pedestrians walking side-by-side can pass an oncoming pedestrian, and (e) a sidewalk corridor six to ten feet wide should be specifically reserved for pedestrian travel in high traffic areas.
10. A pedestrian use zone eight feet wide extending from the frontage line and permitted frontage-side uses would adequately serve the City's compelling need to protect pedestrian travel while providing room for other beneficial uses.

The purpose of this ordinance is to regulate sidewalk usage to provide for pedestrian safety by establishing a pedestrian use zone.

SECTION 2. Section 29-1.1, Revised Ordinances of Honolulu 1990 ("Definitions"), as amended, is amended by adding new definitions of "Mobility device", "Pedestrian" and "Pedestrian Use Zone" to read as follows:

"Mobility device" means a wheelchair, crutch, cane, walker or device that functions similarly to allow an injured or disabled person increased mobility for sidewalk travel."

"Pedestrian" means a person who is on foot or assisted with by a mobility device and able to move immediately to accommodate other sidewalk users."



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“Pedestrian Use Zone” means the portion of a sidewalk that extends toward the street up to eight feet from the adjacent private or public property line bordering the sidewalk opposite the curb; provided that the Pedestrian Use Zone also constitutes the eight feet closest to the street on replacement sidewalks crossing wholly or partially over private property and constituting a pedestrian easement over such private property.”

SECTION 3. Chapter 29, Revised Ordinances of Honolulu 1990 (“Streets, Sidewalks, Malls and Other Public Places”), as amended, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

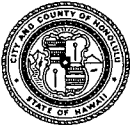
### **“Article \_\_\_\_\_. Use of Sidewalk for Pedestrian Use.**

#### **Sec. 29-\_\_\_.1 Limitation.**

- (a) Except where a person is otherwise expressly authorized or allowed to use a sidewalk, only a pedestrian may use the Pedestrian Use Zone in accordance with this article.
- (b) It is an affirmative defense to prosecution under this section that the behavior occurred within one foot of the curbside boundary of the Pedestrian Use Zone, that the boundary of the zone was not marked, and the person believed in good faith that the person was not in the Pedestrian Use Zone.

#### **Sec. 29-\_\_\_.2 Placing Objects On or Above the Pedestrian Use Zone.**

- (a) Unless authorized or allowed by ordinance or permit, no person may deposit, install, place, fix or leave any object or item in, on or above a Pedestrian Use Zone except personal baggage or luggage that is within arm's reach of the pedestrian possessor.
- (b) An object or item that is on or above a Pedestrian Use Zone in violation of this section is hereby declared to be a public nuisance.
- (c) It is an affirmative defense to prosecution under this section that the behavior occurred within one foot of the curbside boundary of the Pedestrian Use Zone, that the boundary of the zone was not marked, and the person believed in good faith that the person was not in the Pedestrian Use Zone.



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### Sec. 29-\_\_3 Exceptions.

The prohibitions in this article shall not apply to persons:

- (a) Unable to comply due to suffering a medical emergency;
- (b) Unable to comply due to physical disability, as defined in Section 304A-101, Hawaii Revised Statutes, or due to mental illness, as defined in Section 431M-1, Hawaii Revised Statutes;
- (c) Who are acting as authorized or allowed by any article under this chapter or any other ordinance, permit, regulation or statute;
- (d) Performing a government-approved public safety, maintenance or construction function;
- (e) Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to and in compliance with an applicable permit;
- (f) Sitting on a chair or bench supplied or permitted by a public agency;
- (g) Waiting in line for goods or services unless the person refuses to comply with a lawful order of a police officer to form the line in a way that moderates impact on passage along the sidewalk;
- (h) Waiting at a bus stop or taxi stand for a bus or a taxi;
- (i) Moving freight or merchandise for commercial purposes; or
- (j) Who are displaying literature and other expressive materials on portable tables or other portable outdoor furniture, provided that the tables or furniture do no obstruct the free movement of pedestrians through the Pedestrian Use Zone, do not interfere with other lawful activities taking place on the sidewalk, and comply with other provisions of this chapter; and provided further that no table or item of furniture shall be larger than 12 square feet for each person engaging in the expressive activity.



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**Sec. 29-\_\_\_.4 Penalty.**

- (a) No person shall be cited for violating this article unless the person engages in conduct prohibited by this article after having been notified in writing by a law enforcement officer that the person's conduct violates this article.
- (b) Any person violating any provision of this article shall, upon conviction, be subject to a maximum penalty of a \$50.00.

**Sec. 29-\_\_\_.5 Marking of Pedestrian Use Zone.**

The department of facility maintenance shall mark the boundary or boundaries of the Pedestrian Use Zone where the department determines it is necessary to do so because the zone boundary or boundaries may be unclear. The department may also include signage to explain the allowed usage of the zone."

SECTION 4. New ordinance material in Section 2 is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the underscoring.

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